

Consumer Product Safety Commission

§ 1015.9

(c) If no response is made within twenty (20) working days or any extension thereof, the requester can consider his or her administrative remedies exhausted and seek judicial relief in a United States District Court as specified in 5 U.S.C. 552(a)(4)(B). When it appears that no response can be made to the requester within the applicable time limit, the Secretary or delegate of the Secretary may ask the requester to forego judicial relief until a response can be made. The Secretary or delegate of the Secretary shall inform the requester of the reason for the delay, of the date on which a response may be expected and of his/her right to seek judicial review as specified in 5 U.S.C. 552(a)(4)(B).

[42 FR 10490, Feb. 22, 1997, as amended at 62 FR 46197, Sept. 2, 1997]

§ 1015.7 Appeals from initial denials; reconsideration by the Secretary.

(a) When the Secretary or delegate of the Secretary has denied a request for records in whole or in part, the requester may, within 30 days of its receipt, appeal the denial to the General Counsel of the Consumer Product Safety Commission, attention of the Secretary, Washington, DC 20207.

(b) The General Counsel, or the Secretary upon reconsideration, will act upon an appeal within 20 working days of its receipt. The time limitations on an appeal begin to run as of the time an appeal is received by the Office of the Secretary and date stamped.

(c) After reviewing the appeal, the Secretary will reconsider his/her initial denial. If the Secretary upon reconsideration decides to release any or all of the information requested on appeal, an appeal as to the information released will be considered moot; and the Secretary will so inform the requester and submitter of the information in accordance with §§ 1015.6(a) and 1015.18(b). If the Secretary decides to affirm the initial denial, in whole or in part, the General Counsel will decide the appeal within the 20-day time limit or any extension thereof in accordance with § 1015.5.

(d) The General Counsel shall have the authority to grant or deny all appeals and, as an exercise of discretion, to disclose records exempt from man-

datory disclosure under 5 U.S.C. 552(b). In unusual or difficult cases the General Counsel may, in his/her discretion, refer an appeal to the Commissioners for determination.

(e) The General Counsel's action on appeal shall be in writing, shall be signed by the General Counsel, and shall constitute final agency action. A denial in whole or in part of a request on appeal shall set forth the exemption relied upon; a brief explanation, consistent with the purpose of the exemption, of how the exemption applies to the records withheld; and the reasons for asserting it. A denial in whole or in part shall also inform the requester of his/her right to seek judicial review of the Commission's final determination in a United States district court, as specified in 5 U.S.C. 552(a)(4)(B).

(f) If no response is made to the requester within 20 working days or any extension thereof, the requester may consider his/her administrative remedies exhausted and seek judicial relief in a United States district court. When no response can be made within the applicable time limit, the General Counsel shall inform the requester of the reason for the delay, of the date by which a response may be expected, and of the requester's right to seek judicial review as specified in 5 U.S.C. 552(a)(4)(B).

(g) Copies of all appeals and copies of all actions on appeal shall be furnished to and maintained in a public file by the Secretary.

(5 U.S.C. 552(a)(6)(A); 5 U.S.C. 553; 15 U.S.C. 2076(b)(9))

[50 FR 7753, Feb. 26, 1985]

§ 1015.8 Requests received during the course of administrative hearings. [Reserved]

§ 1015.9 Fees for production of records.

(a) The Commission will provide, at no charge, certain routine information. For other Commission responses to information requests, the Secretary shall determine and levy fees for duplication, search, review, and other services, in accordance with this section.

(b) Fees shall be paid by check or money order, payable to the Treasury